

**IN THE UNITED STATES DISTRICT COURT  
NORTHERN DISTRICT OF TEXAS  
ABILENE DIVISION**

**RICHARD KILLION,  
Plaintiff**

**VS.**

**NATIONAL GENERAL INSURANCE  
COMPANY,  
Defendant.**

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**CIVIL ACTION NO. \_\_\_\_\_**

**NOTICE OF REMOVAL AND REQUEST FOR JURY**

TO THE UNITED STATES DISTRICT CLERK:

PLEASE TAKE NOTICE that Defendant National General Insurance Company (“National General”) hereby removes to this Court the state court action described below.

**Procedural Background**

1. On May 2, 2017, Richard Killion filed Plaintiff’s Original Petition, Discovery and Request for Disclosure in Cause No. CV31921 in the 90<sup>th</sup> Judicial District Court of Stephens County, Texas, initiating an action identifying National General Insurance Company as the Defendant.

2. Defendant was served with Citation and a copy of Plaintiff’s Original Petition, Discovery and Request for Disclosure on May 8, 2017. Defendant filed an answer in the state court action.

**Nature of the Suit**

3. Plaintiff owns a 2013 Allegro Phaeton Freightliner Class A Motorhome that is insured under a personal automobile policy issued by Defendant. This lawsuit involves a dispute over the payment of insurance proceeds and the handling of Plaintiff’s insurance claim resulting

from damage to the Motorhome as a result of road debris Plaintiff ran over on July 7, 2016. Plaintiff alleges that Defendant breached the insurance contract, engaged in unfair settlement practices in violation of the Texas Insurance Code, and violated the Texas Deceptive Trade Practices Act.

**Basis for Removal**

4. This Court has original jurisdiction under 28 U.S.C. §1332 over this civil action, and the action may be removed by Defendant pursuant to 28 U.S.C. §1441(b), in that it is a civil action between citizens of different states and the matter in controversy exceeds the sum of \$75,000, exclusive of interest and costs.

5. Plaintiff's Original Petition, Discovery and Request for Disclosure includes a breakdown of Plaintiff's requested actual damages that total \$103,325.24. This is exclusive of any exemplary or additional damages that Plaintiff is also seeking in this matter. Accordingly, Defendant has established the amount in controversy exceeds the sum of \$75,000, exclusive of interest and costs.

6. Defendant is informed and believes that Plaintiff was, and still is, a citizen of the State of Texas. Plaintiff's Original Petition, Discovery, and Request for Disclosure alleges that Plaintiff is a resident of Stephens County, Texas.

7. Defendant is a corporation that was incorporated in the State of Missouri and has its principal place of business in Hazelwood, Missouri. Therefore, at the time this civil action was commenced up through the date of this Notice, Defendant is a citizen of the State of Missouri. Consequently, Defendant is not a citizen of the State of Texas for diversity purposes.

**Removal is Procedurally Correct**

8. Plaintiff commenced this action on May 2, 2017, and National General was served with citation on May 8, 2017. Therefore, Defendant filed this notice of removal within the 30-day time period required by 28 U.S.C. § 1446(b)(1).

9. Venue is proper in this district under 28 U.S.C. § 1446(a) because this district and division embrace the place in which the removed action was pending and because a substantial part of the events giving rise to the Plaintiff's claims allegedly occurred in this district.

10. Pursuant to 28 U.S.C. § 1446(a) and Local Rule 81.1, the following documents are attached hereto:

Exhibit A: an index of all documents filed in the state court action

Exhibit B: a certified docket sheet from the state court action

Exhibit C: a copy of all pleadings, orders, and all other filings in the state court action arranged chronologically by date filed in the state court action, as follows:

Exhibit C-1: Plaintiff's Original Petition, Discovery and Request for Disclosure

Exhibit C-2: Defendant's Original Answer

Exhibit C-3: Defendant's First Amended Original Answer

Exhibit C-4: Letter Requesting Certified Copy of Docket Sheet

Exhibit C-5: Letter Requesting Certified Copy of Docket Sheet

11. Pursuant to 28 U.S.C. § 1446(d), Defendant will provide prompt written notice of the filing of this Notice of Removal to Plaintiff, and will file a notice with the Clerk of the 90<sup>th</sup> Judicial District Court for Stephens County, Texas.

**Jury Demand**

12. Pursuant to Rule 38, Defendant hereby demands a trial by jury.

Respectfully submitted,

**EKVALL & BYRNE, L.L.P.**

BY: /s/ Erik E. Ekvall

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**ATTORNEYS FOR DEFENDANT  
NATIONAL GENERAL INSURANCE  
COMPANY**

**CERTIFICATE OF SERVICE**

This is to certify that on this 7th day of June, 2017, a true and correct copy of the “Notice of Removal and Request for Jury” was served upon the following counsel of record via U.S. Certified mail, return receipt requested:

**Via CMRRRR #70170530000010350435**

Mark L. Aschermann

ASCHERMANN LAW

6300 West Loop South, Suite 280

Bellaire, Texas 77401

**ATTORNEY FOR PLAINTIFF Richard Killion**

/s/ Erik E. Ekvall

Erik E. Ekvall